

****NOT FOR PRINTED PUBLICATION****

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

JUAN JAVIER ORNELAS	§	
VS.	§	CIVIL ACTION NO. 9:18-CV-65
LEONTYNE HAYNES	§	

**ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND ACCEPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Juan Javier Ornelas, a prisoner previously confined at the Eastham Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against Leontyne Haynes.

The Court ordered that this matter be referred to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this Court. The Magistrate Judge recommends granting defendant's motion for summary judgment.

The Court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and the pleadings. Plaintiff filed objections to the Magistrate Judge's Report and Recommendation.

The Court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). For the reasons stated in the Magistrate Judge's Report and Recommendation, defendant's motion for summary judgment should be granted because plaintiff did not exhaust administrative remedies before he filed this action. Plaintiff alleges that prison

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employees prevented him from exhausting administrative remedies. Contrary to plaintiff's assertion, the record reflects that he was able to file both steps of the grievance procedure. However, his retaliation claim is unexhausted because plaintiff did not follow the proper procedure by raising the claim in his Step 1 grievance.

ORDER

Plaintiff's objections (document no. 90) are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge (document no. 87) is **ACCEPTED**. Defendant's motion for summary judgment (document no. 64) is **GRANTED**. A final judgment will be entered in accordance with the Magistrate Judge's recommendation.

So ORDERED and SIGNED, Mar 24, 2021.

A handwritten signature in black ink, appearing to read "Ron Clark", written over a horizontal line.

Ron Clark
Senior Judge